SBCivil Writ Petition No.5711/2003

Nirmal Jain
Vs.
State of Rajasthan & Ors.

Date of Order :: 22nd August, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Miss Kusum Rao, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

....

The petitioner, a Master of Science with Bachelors Degree in Education applied for appointment to the post of Senior Teacher (Maths) in pursuant to an advertisement dated 19.8.2003 issued by the Deputy Director (Secondary), Udaipur Zone, Udaipur, however, while considering his candidature the bonus marks against his teaching experience as para teacher were not awarded, hence this petition for writ is preferred.

Learned counsel for the petitioner while making claim for the petitioner's right to get bonus marks against teaching experience placed reliance upon clause 9(2) of the policy declared by the Government of Rajasthan on 22.3.2001 to determine merit while making appointments to the post of Senior Teacher. The clause 9(2) referred above reads as under:-

"अध्यापन अनुभव अंक:-

वरिष्ठ अध्यापक (द्वितीय वेतन श्रृखंला) के पद पर नियुक्ति हेतु माध्यमिक शिक्षा/प्रारंभिक शिक्षा/ग्रामीण विकास एवं पंचायती राज विभाग की शिक्षण संस्थाओं/संस्कृत विभाग एवं राजस्थान सरकार द्वारा अनुदान प्राप्त विद्यालयों में अनुदानित पदों पर कार्यरत शिक्षक/संस्था प्रधान को अध्यापन अनुभव अंक दिये जावेगें। पुस्तकालयाध्यक्ष द्वितीय वेतन श्रृखंलाके पद हेतु अनुभव अंक निम्नानुसार देय होगें:-

सत्र	देय अंक
01	01
02	03
03	05

(1)सत्र का तात्पर्य वर्ष विशेष में कम से कम छ: माह का अनवरत अध्यापन हो।
(2) प्रयोगशाला सहायक के पद पर कार्यरत आशार्थियों को अनुभव अंक का लाभ देय नहीं होगा।"

While defending the non grant of bonus marks against teaching experience, it is contended by counsel for the respondents that the petitioner possess teaching experience as a para teacher, for that no bonus marks can be awarded under the policy concerned. Counsel for the respondents placed reliance upon a judgment of this Court in the case of Arjun Ram v. State of Rajasthan & Ors., SBCivil Writ Petition No.5681/2003, decided on 12.11.2003, wherein this Court held as under:-

> "The controversy involved in the instant case stands squarely covered by the decisions of the coordinate Benches of this Court in SBCWP No.2988/2001 decided on 14.9.2001 and SBCWP No.2018/2001 decided on 6.8.2002, wherein the coordinate Benches of this Court held that if the State Government has taken a policy decision that experience as a teacher in Rajiv Gandhi Swaran Jayanti Pathshala is not to be considered for the purpose of giving additional three bonus marks, the decision cannot be said to be arbitrary and it cannot be interfered with by this Court in exercise of power under Article 226 of the Constitution of India."

This Court by order dated 25.1.2006 directed the respondents to place on record the criteria adopted for selection of Senior Teachers. In pursuant thereto a complete set of policy dated 22.3.2001 is placed on record by counsel for the respondents.

Heard counsel for the parties.

It is the position admitted by the respondents that the merit of aspirant for the purpose of appointment as Senior Teacher was determined in accordance with circular dated 22.3.2001. The circular dated 22.3.2001 prescribes for grant of bonus marks against teaching experience in accordance with para 9 (2). Para 9(2) of the circular referred above simply mentions about grant of bonus marks against teaching

experience in educational institutions run by department of Rural Development and Panchayat Raj. It nowhere excludes the experience gained as a para teacher while working in an educational institution run by the Panchayat Raj Department. It is pertinent to note that the experience gained as laboratory assistant has been specifically excluded for getting the bonus marks. This Court in the case of Arjun Ram (supra) declined for grant of bonus marks to para teachers only on the count that there is a policy decision of the government for not taking into consideration the experience of a para teacher while working in Rajiv Gandhi Swaran Jayanti Pathshala. In the instant matter the respondents have placed on record their policy decision that nowhere mentions that a para teacher working in a Panchayat Raj institution shall not be entitled for bonus marks.

In view of it, I am of the considered opinion that the respondents without having any policy decision of Government of Rajasthan denied bonus marks against teaching experience to the petitioner and, therefore, the same is illegal.

Accordingly, this petition for writ is allowed. The respondents are directed to consider candidature of the petitioner for the purpose of appointment as teacher in pursuant to notification dated 19.8.2003 by awarding bonus marks against

teaching experience. In event the petitioner after getting bonus marks stands in merit list, appointment be given to him in accordance with law.

(GOVIND MATHUR),J.

kkm/ps.